

SBTECHNOLOGY LAW

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DATE: May 2, 2003

TO: Examiner Alton N. Pryor

ADDRESS: U.S. Patent and Trademark Office
Washington, D.C.,
20231

SENDER'S DIRECT DIAL NO.: (513) 229-7874

TOTAL NUMBER OF PAGES: 20

ADDITIONAL INFORMATION: Attached are the following: Amendment Or Response After Final Rejection- Transmittal including Certificate of Transmission dated May 2, 2003; Fee Transmittal; Credit Card Patent & Trademark Office Credit Card Payment Form (PTO-2038); Amendment And Response To The Final Office Action; Information Disclosure Citation Form; Cited pages of Practical Handbook of Soybean Processing and Utilization.

FAX TO:

Name	Fax Number	Confirm Number
A. Pryor	703-746-4996	

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable laws. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return original message to us at the above address via the U.S. Postal Service. Thank you.

MASON, OHIO

SMITH BRANDENBURG LTD.

RENO, NEVADA

Attorney's Docket N . DVL-003PAT

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Donald V. Lightcap, Jr. et al.

Serial No.: 09/128,753

Group No.: 1616

Filed: August 4, 1998

Examiner: Alton Pryor

For: COMPOSITION, METHOD, AND APPARATUS FOR PROTECTING
PLANTS FROM INJURY CAUSED BY FROST OR FREEZING
TEMPERATURES

Box AF

Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT OR RESPONSE AFTER FINAL REJECTION - TRANSMITTAL
(37 CFR 1.116)

1. Transmitted herewith is an amendment after final rejection (37 CFR 1.116) for this application.
2. Applicant is

X a small entity. A verified statement:

___ is attached.

X was already filed.

___ other than a small entity.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

FACSIMILE

___ is deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on April 1, 2003.

X Transmitted by facsimile to the Patent and Trademark Office on May 2, 2003, fax no. 703-746-4996.

05/27/2003 PTUCK1 00000003 09128753

01 FC:2251

55.00 07

Signature: 

Mark F. Smith

(Type or print name of person certifying)

Date: May 2, 2003

3.

EXTENSION OF TERM

NOTE- "Extension Of Time in Patent Cases (Supplement Amendments) - if a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action; an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely filed response placed the application in condition for allowance. Of course if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G. 34-5).

NOTE- See 37 CFR 1.645 for extensions of time in interference proceedings, and 37 CFR 1.550(c) for extensions of time in reexamination proceedings.

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

(complete (a) or (b), as applicable)

- (a) X Applicant petitions for an extension of time under 37 CFR 1.136
(fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

Extension (months)	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<u>X</u> one month	\$ 110.00	\$ 55.00
two months	\$ 400.00	\$200.00
three months	\$ 920.00	\$460.00
four months	\$1,440.00	\$720.00

Fee \$ 55.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next term, if applicable)

- (a) An extension for months has already been secured and the fee paid therefore of \$ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 55.00

OR

- (b) Applicant believes that no extension of term is required. However this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

4.

FEE FOR CLAIMS

The fee for claims (37 CFR 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY	OTHER THAN A SMALL ENTITY
CLAIMS REMAINING AFTER PREVIOUSLY AMENDMENT	No. PAID PAID FOR	ADDIT. RATE FEE	ADDIT. OR RATE FEE	
TOTAL	MINUS	=	x 9.00 = x 18.00	\$ 0.00
INDEP	MINUS	=	x 42.00= x 84.00	\$

ADDITIONAL FEE: \$0.00

- * If the entry in Col. 1 is less than entry in Col. 2, write "0" in Col. 3.
 - ** If the "Highest No Previously Paid for" IN THIS SPACE is less than 20, enter "20".
 - *** If the "Highest No. Previously Paid for" IN THIS SPACE is less than 3, enter "3"
- The "Highest No. Previously Paid for" (Total or indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number or claims originally filed.

WARNING "After final rejection or action (Section 1.113) amendments may be made canceling claims or complying with any requirement of a form which has been made." 37 CFR 1.116(a) (emphasis added).

(complete (c) or (d), as applicable)

(c) X No additional fee for claims is required

OR

(d) _____ Total additional fee for claims required \$0.00

5.

FEE PAYMENT

_____ Attached is a check in the sum of \$ 00.00 _____.

X Charge Mastercard Number, Form PTO-2038 the sum of \$ 55.00.
Form PTO-2038 is attached.

6.

FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7 1-86, (1065 O.G. 31-33).

If any additional extension and/or fee is required, charge Account No. _____.

AND/OR

____ If any additional fee for claims is required, charge Account No. _____.

7.

OTHER DOCUMENTS ATTACHED

____ No other documents are attached.

____ The following documents are attached hereto:

Form 1449.

Reg.No.: 32,437



SIGNATURE OF ATTORNEY

Mark F. Smith

SBTechnology Law

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Suite 102

Mason, Ohio 45040

(513) 229-7874 (Phone/Fax)

marks@sbtechnologylaw.com (Email)

Approved for use through 10/31/2002. CMB 0651-0032
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
 Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

Complete if Known

Application Number	09/128,753
Filing Date	August 4, 1998
First Named Inventor	Donald V. Lightcap, Jr.
Examiner Name	Alton N. Pryor
Group Art Unit	1616
Attorney Docket No.	DVL-003PAT

TOTAL AMOUNT OF PAYMENT \$55.00

METHOD OF PAYMENT		FEE CALCULATION (continued)																																																																																																																					
1. <input type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to: Deposit Account Number <input type="text"/> Deposit Account Name <input type="text"/> <input type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17 <input type="checkbox"/> Applicant claims small entity status. See 37 CFR § 1.27		3. ADDITIONAL FEES <table border="1"> <thead> <tr> <th>Large Entity Fee Code (\$)</th> <th>Small Entity Fee Code (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>105</td> <td>130</td> <td>205 66 Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>127</td> <td>60</td> <td>227 26 Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>139</td> <td>130</td> <td>139 130 Non - English specification</td> <td></td> </tr> <tr> <td>147</td> <td>2,620</td> <td>147 2,620 For filing a request for ex parte reexamination</td> <td></td> </tr> <tr> <td>112</td> <td>920*</td> <td>112 920* Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>113</td> <td>1,840*</td> <td>113 1,840* Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>115</td> <td>110</td> <td>216 66 Extension for reply within first month</td> <td>\$5.00</td> </tr> <tr> <td>116</td> <td>390</td> <td>216 198 Extension for reply within second month</td> <td></td> </tr> <tr> <td>117</td> <td>690</td> <td>217 445 Extension for reply within third month</td> <td></td> </tr> <tr> <td>118</td> <td>1,390</td> <td>218 695 Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>128</td> <td>1,680</td> <td>228 845 Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>119</td> <td>310</td> <td>219 155 Notice of Appeal</td> <td></td> </tr> <tr> <td>120</td> <td>310</td> <td>220 165 Filing a brief in support of an appeal</td> <td></td> </tr> <tr> <td>121</td> <td>270</td> <td>221 135 Request for oral hearing</td> <td></td> </tr> <tr> <td>138</td> <td>1,510</td> <td>138 1,510 Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>140</td> <td>110</td> <td>240 55 Petition to revive - unavoidable</td> <td></td> </tr> <tr> <td>141</td> <td>1,240</td> <td>241 620 Petition to revive - unintentional</td> <td></td> </tr> <tr> <td>142</td> <td>1,240</td> <td>242 620 Utility issue fee (or reissue)</td> <td></td> </tr> <tr> <td>143</td> <td>440</td> <td>243 220 Design issue fee</td> <td></td> </tr> <tr> <td>144</td> <td>600</td> <td>244 300 Plant issue fee</td> <td></td> </tr> <tr> <td>122</td> <td>130</td> <td>122 130 Petitions to the Commissioner</td> <td></td> </tr> <tr> <td>123</td> <td>50</td> <td>123 50 Processing fee under 37 CFR § 1.17(q)</td> <td></td> </tr> <tr> <td>126</td> <td>180</td> <td>126 180 Submission of Information Disclosure Statement</td> <td></td> </tr> <tr> <td>581</td> <td>40</td> <td>581 40 Recording each patent assignment per property (times number of properties)</td> <td></td> </tr> <tr> <td>148</td> <td>710</td> <td>248 356 Filing a submission after final rejection (37 CFR § 1.129(a))</td> <td></td> </tr> <tr> <td>149</td> <td>710</td> <td>249 355 For each additional invention to be examined (37 CFR § 1.129(b))</td> <td></td> </tr> <tr> <td>179</td> <td>710</td> <td>279 355 Request for Continued Examination (RCE)</td> <td></td> </tr> <tr> <td>189</td> <td>900</td> <td>189 600 Request for expedited examination of a design application</td> <td></td> </tr> </tbody> </table> Other fee (specify) <input type="text"/>		Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid	105	130	205 66 Surcharge - late filing fee or oath		127	60	227 26 Surcharge - late provisional filing fee or cover sheet		139	130	139 130 Non - English specification		147	2,620	147 2,620 For filing a request for ex parte reexamination		112	920*	112 920* Requesting publication of SIR prior to Examiner action		113	1,840*	113 1,840* Requesting publication of SIR after Examiner action		115	110	216 66 Extension for reply within first month	\$5.00	116	390	216 198 Extension for reply within second month		117	690	217 445 Extension for reply within third month		118	1,390	218 695 Extension for reply within fourth month		128	1,680	228 845 Extension for reply within fifth month		119	310	219 155 Notice of Appeal		120	310	220 165 Filing a brief in support of an appeal		121	270	221 135 Request for oral hearing		138	1,510	138 1,510 Petition to institute a public use proceeding		140	110	240 55 Petition to revive - unavoidable		141	1,240	241 620 Petition to revive - unintentional		142	1,240	242 620 Utility issue fee (or reissue)		143	440	243 220 Design issue fee		144	600	244 300 Plant issue fee		122	130	122 130 Petitions to the Commissioner		123	50	123 50 Processing fee under 37 CFR § 1.17(q)		126	180	126 180 Submission of Information Disclosure Statement		581	40	581 40 Recording each patent assignment per property (times number of properties)		148	710	248 356 Filing a submission after final rejection (37 CFR § 1.129(a))		149	710	249 355 For each additional invention to be examined (37 CFR § 1.129(b))		179	710	279 355 Request for Continued Examination (RCE)		189	900	189 600 Request for expedited examination of a design application	
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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Mark F. Smith	Registration No. (Attorney/Agent)	32,437
Signature	<i>Mark F. Smith</i>	Telephone	513-229-7874
		Date	May 2, 2003

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.